

Gondepne, P

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/17/15

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALCIBIADES URBAEZ,

Plaintiff,

Case No.: 14-Civ-5333 (PGG)

-vs.-

STIPULATION AND
ORDER OF DISMISSAL

JONATHAN & GABRIELLE PARKING
INC., and FÉLIX N. MORALES,
Defendants.

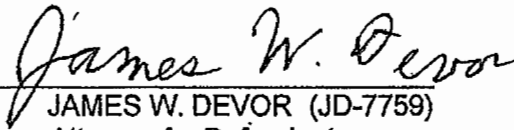
It is hereby stipulated by and between the parties, by their respective attorneys of record, that Defendants did not earn \$500,000.00 in annual gross receipts during the pertinent time period, and are therefore not an "[e]nterprise engaged in commerce or in the production of goods for commerce" as that term is defined by the Fair Labor Standards Act (hereinafter "FLSA" at 29 U.S.C § 203(s)(1)(A); nor was the Plaintiff "engaged in commerce or in the production of goods for commerce" when he worked for Defendants as that term is contemplated in 29 U.S.C. § 207(a)(1). This renders Plaintiff unable make out a prima facie case upon a FLSA claim, which forms the only basis for federal subject matter jurisdiction in this Court.

Therefore, the parties jointly move that the subject Complaint be dismissed without costs, disbursements or attorney's fees awarded to either party. Said dismissal shall be *with prejudice* with respect to plaintiff's FLSA claims but shall be *without prejudice* to any claims that Plaintiff may have under New York State law.

Dated: New York, New York
April 6, 2015

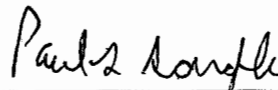


WILLIAM C. CAFARO (WC-2730)
Attorney for Plaintiff
108 West 39th Street, Suite 602
New York, New York 10018
Tel.: (212) 583-7400
Fax: (212) 583-7401
bcafaroc@cafaroescq.com



JAMES W. DEVOR (JD-7759)
Attorney for Defendants
305 Broadway, Suite 700
New York, New York 10007
Tel.: (212) 374-1969
Devor.Law@gmail.com

SO ORDERED:



Hon. PAUL G. GARDEPHE
United States District Judge

enc

Dated: New York, New York
April 17, 2015